

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DAVID UPDEGROVE & JACOB CZARNECKI & CHRISTI CZARNECKI

(b) County of Residence of First Listed Plaintiff Schuylkill
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Marc F. Greenfield, Esquire (215-985-2424)
Spear, Greenfield, Richman, Weitz & Taggart
1500 JFK Blvd., Suite 200, Philadelphia, PA 19102

DEFENDANTS

CATHERINE MAHON & UNITED STATES OF AMERICA

County of Residence of First Listed Defendant Schuylkill
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input checked="" type="checkbox"/> 350 Motor Vehicle	LABOR	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting		FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	IMMIGRATION	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education			
	PRISONER PETITIONS			
	Habeas Corpus:			
	<input type="checkbox"/> 463 Alien Detainee			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	Other:			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1391Brief description of cause:
Motor Vehicle Accident

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

July 26, 2022

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 144 N. Mill Street, St. Clair, PA 17970

Address of Defendant: 425 E. Main Street, Apt. 4, Schukill Haven, PA 17972

Place of Accident, Incident or Transaction: Bernville Road and Summer Drive

RELATED CASE, IF ANY:

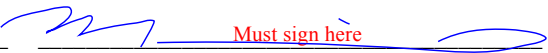
Case Number: Judge: Date Terminated:

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|-----------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 08/01/2022



 Must sign here

 Attorney-at-Law / Pro Se Plaintiff

62081

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☐ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☒ 11. All other Federal Question Cases
 (Please specify): Federal Tort Claim

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☐ 6. Other Personal Injury (Please specify):
☐ 7. Products Liability
☐ 8. Products Liability – Asbestos
☐ 9. All other Diversity Cases
 (Please specify):

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, _____, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: _____ Sign here if applicable _____

Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

DAVID UPDEGROVE & JACOB CZARNECKI &
CHRISTI CZARNECKI

Plaintiff(s)

v.

CATHERINE MAHON &
UNITED STATES OF AMERICA
c/o United State Attorney General

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CATHERINE MAHON
425 E. Main Street, Apt. 4
Schuylkill Haven, PA 17972
&
UNITED STATES OF AMERICA c/o United States Attorney General
10th Street NW & Constitution Avenue, Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Spear, Greenfield, Richman, Weitz & Taggartm P.C.
Two Penn Center Plaza, Suite 200
1500 John F. Kennedy Boulevard
Philadelphia, PA 19102

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAVID UPDEGROVE

144 N. Mill Street
St. Clair, PA 17970

&

JACOB CZARNECKI

39 N. 4th Street
St. Clair, PA 17970

&

CHRISTI CZARNECKI

39 N. 4th Street
St. Clair, PA 17970

Plaintiffs,

v.

CATHERINE MAHON

425 E. Main Street, Apt. 4
Schuylkill Haven, PA 17972

&

UNITED STATES OF AMERICA

c/o United States Attorney General
10th Street NW & Constitution Avenue
Washington, DC 20530

Defendants.

COMPLAINT IN CIVIL ACTION

NO.

JURY DEMAND

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 1346(b)(1), which grants the District Court exclusive jurisdiction over civil actions against the United States seeking money damages for personal injuries caused by the negligent acts or omissions of any employee of the Government while acting within the scope of their office or employment.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391, because all of the alleged acts or occurrences leading to plaintiff's injuries occurred within the City of Bernville and County of Berks, in the Commonwealth of Pennsylvania.

PARTIES

3. Plaintiff, David Updegrove, is a citizen and resident of the Commonwealth of Pennsylvania, residing at the address listed in the caption of this Complaint.

4. Plaintiff, Jacob Czarnecki, is a citizen and resident of the Commonwealth of Pennsylvania, residing at the address listed in the caption of this Complaint.

5. Plaintiff, Christi Czarnecki, is a citizen and resident of the Commonwealth of Pennsylvania, residing at the address listed in the caption of this Complaint.

6. Defendant, Catherine Mahon, is a citizen and resident of the Commonwealth of Pennsylvania with an address at the address listed in the caption of this Complaint, who at all times material hereto was acting individually and/or as a lessee, agent, servant, workman, and/or employee of the Department of the Army, which is an agency of the defendant, United States of America, with the express, apparent, and/or implied permission, authorization and/or consent of defendant, United States of America

7. Defendant, United States of America, with a registered business address listed in the caption of this Complaint, operates the Department of the Army, which is a federal agency of the executive branch of the United States Government, doing business in the Commonwealth of Pennsylvania, which at all times material hereto was acting individually and/or by and through all lessees, agents, servants, workmen, and/or employees, including defendant, Catherine Mahon.

FACTS

8. On or about August 10, 2020, plaintiff, David Updegrove, owned and operated a motor vehicle at or near Bernville Road and Summer Drive, in the City of Bernville and County of Berks, in the Commonwealth of Pennsylvania.

9. At the same date and time, plaintiff, Jacob Czarnecki, was the passenger in the motor vehicle operated by plaintiff, David Updegrove, at or near Bernville Road and Summer Drive, in the City of Bernville and County of Berks, in the Commonwealth of Pennsylvania.

10. At the same date and time, plaintiff, Christi Czarnecki, was the passenger in the motor vehicle operated by plaintiff, David Updegrove, at or near Bernville Road and Summer Drive, in the City of Bernville and County of Berks, in the Commonwealth of Pennsylvania.

11. At the same date and time, defendant, Catherine Mahon, operated a motor vehicle owned by an agency of defendant, United States of America, at or near Bernville Road and Summer Drive, in the City of Bernville and County of Berks, in the Commonwealth of Pennsylvania.

12. Suddenly and without warning, defendant, Catherine Mahon, negligently and/or carelessly operated the motor vehicle owned by defendant, United States of America, in such a manner as to strike the vehicle in which plaintiffs occupied.

13. As a result of this accident, plaintiffs have suffered severe and permanent bodily injuries which are more fully set forth below.

COUNT I
David Updegrove v. Catherine Mahon
Personal Injury

14. Plaintiff incorporates herein the allegations set forth in the aforementioned paragraphs, inclusive, as if set forth here at length.

15. The negligence and/or carelessness of defendant consisted of the following:

- a. Operating a commercial motor vehicle in a negligent and/or careless manner without regard for the rights or safety of plaintiff or others;

- b. Failing to have said commercial vehicle under proper and adequate control;
- c. Failing to observe the position of the plaintiff's vehicle and to take such action as was necessary to prevent causing a collision;
- d. Failing to operate a commercial motor vehicle at a speed which would have allowed the defendant to stop within an assured clear distance;
- e. Operating said commercial vehicle at a dangerous and excessive rate of speed under the circumstances;
- f. Being inattentive to defendant's duties as the operator of a commercial motor vehicle;
- g. Disregarding traffic lanes, patterns and other devices;
- h. Failing to keep an adequate distance from other vehicles that were within the vicinity of the commercial vehicle that defendant, through its lessees, agents, servants, workmen, and/or employees, was operating;
- i. Failing to perceive the highly apparent danger to others which the defendant's actions and/or inactions posed;
- j. Failing to give plaintiff meaningful warning signs concerning the impending incident;
- k. Failing to exercise ordinary care to avoid injuring plaintiff;
- l. Failing to be highly vigilant and to maintain sufficient control of said commercial vehicle;
- m. Causing a collision;
- n. Operating a commercial motor vehicle with disregard for the rights, safety

and proximity of plaintiff, even though defendant was aware, or should have been aware of plaintiff's presence and the threat of harm posed to plaintiff;

- o. Failing to inspect defendant's commercial vehicle or to maintain said vehicle in a safe and non-defective condition;
- p. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway;
- q. Failing to operate a commercial motor vehicle in compliance with the applicable laws and ordinances of the City of Bernville and County of Berks, and the Statutes of the Commonwealth of Pennsylvania pertaining to the operation and control of commercial motor vehicles;
- r. Operating a commercial motor vehicle and other devices at the same time and in total disregard for the safety of the plaintiff and others in direct violation of the laws of the Commonwealth of Pennsylvania; and,

16. As a direct result of the negligent and/or careless conduct of defendant, the plaintiff, suffered various serious and permanent personal injuries, serious impairment of body function and/or permanent serious disfigurement and/or aggravation of pre-existing conditions, including, but not limited to: multilevel thoracic disc protrusions, multilevel thoracic disc bulging, multilevel lumbar disc protrusions, multilevel lumbar disc bulging, multilevel cervical disc bulging, thoracic sprain and strain, lumbar sprain and strain, cervical sprain and strain, right hand sprain and strain, post traumatic headaches, and any other ills and injuries, all to plaintiff's great loss and detriment.

17. As a result of these injuries, all of which are permanent in nature and all of which

are to plaintiff's great financial detriment and loss, plaintiff has in the past, is presently and may in the future suffer great pain, anguish, sickness and agony and will continue to suffer for an indefinite time into the future.

18. As an additional result of the carelessness and/or negligence of defendant, plaintiff has suffered emotional injuries, along with the physical injuries suffered.

19. As a further result of the plaintiff's injuries, plaintiff has in the past, is presently and may in the future undergo a great loss of earnings and/or earning capacity, all to plaintiff's further loss and detriment.

20. Furthermore, in addition to all the injuries and losses suffered by the plaintiff, plaintiff has also incurred or will incur medical, rehabilitative and other related expenses in an amount equal to and/or in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa.C.S. §1701, et. seq., as amended, and/or Worker's Compensation Benefits, pursuant to Act 57, for which plaintiff makes a claim for payment in the present action.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

COUNT II
David Updegrove v. Catherine Mahon
Property Damage

21. Plaintiff incorporates herein the allegations set forth in the aforementioned paragraphs, inclusive, as if set forth here at length.

22. As a result of defendant's negligence and/or carelessness as aforesaid, plaintiff

suffered property damage to plaintiff's vehicle and other related damages.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

COUNT III
David Updegrove v. United States of America
Personal Injury

23. Plaintiff incorporates by reference all the allegations contained in the above paragraphs as if the same were set forth below at length.

24. The negligence and/or carelessness of defendant, acting individually and/or by and through agents, servants, workmen and/or employees, consisted of the following:

- a. Operating a commercial motor vehicle in a negligent and/or careless manner without regard for the rights or safety of plaintiff or others;
- b. Failing to have said commercial vehicle under proper and adequate control;
- c. Failing to observe the position of the plaintiff's vehicle and to take such action as was necessary to prevent causing a collision;
- d. Failing to operate a commercial motor vehicle at a speed which would have allowed the defendant to stop within an assured clear distance;
- e. Operating said commercial vehicle at a dangerous and excessive rate of speed under the circumstances;
- f. Being inattentive to defendant's duties as the operator of a commercial motor vehicle;

- g. Disregarding traffic lanes, patterns and other devices;
- h. Failing to keep an adequate distance from other vehicles that were within the vicinity of the commercial vehicle that defendant, through its lessees, agents, servants, workmen, and/or employees, was operating;
- i. Failing to perceive the highly apparent danger to others which the defendant's actions and/or inactions posed;
- j. Failing to give plaintiff meaningful warning signs concerning the impending incident;
- k. Failing to exercise ordinary care to avoid injuring plaintiff;
- l. Failing to be highly vigilant and to maintain sufficient control of said commercial vehicle;
- m. Causing a collision;
- n. Operating a commercial motor vehicle with disregard for the rights, safety and proximity of plaintiff, even though defendant was aware, or should have been aware of plaintiff's presence and the threat of harm posed to plaintiff;
- o. Failing to inspect defendant's commercial vehicle or to maintain said vehicle in a safe and non-defective condition;
- p. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway;
- q. Failing to operate a commercial motor vehicle in compliance with the applicable laws and ordinances of the City of Bernville and County of Berks, and the Statutes of the Commonwealth of Pennsylvania pertaining

to the operation and control of commercial motor vehicles;

- r. Operating a commercial motor vehicle and other devices at the same time and in total disregard for the safety of the plaintiff and others in direct violation of the laws of the Commonwealth of Pennsylvania; and,

25. The negligence and/or carelessness of defendant further consisted of the following:

- a. Permitting an incompetent driver to operate defendant's commercial motor vehicle;
- b. Failing to determine whether defendant, through its lessees, agents, servants, workmen, and/or employees, possessed the necessary skills and/or possessed the necessary mental or physical ability to exercise such driving skills;
- c. Failing to determine whether defendant, through its lessees, agents, servants, workmen, and/or employees, possessed a valid license or other requirements to drive and/or operate a commercial motor vehicle;
- d. Failure to inspect defendant, through its lessees, agents, servants, workmen, and/or employee's prior history of bad driving;
- e. Failing to instruct defendant, through its lessees, agents, servants, workmen, and/or employees, in the proper method of operating a commercial motor vehicle;
- f. Failing to properly instruct the defendant, through its lessees, agents, servants, workmen, and/or employees, on how to properly operate defendant's commercial motor vehicle and its warning apparatus in an

emergency situation;

- g. Failing, as defendant, through its lessees, agents, servants, workmen, and/or employees' authority, to control said driver's conduct in regard to the manner in which said defendant was operating the commercial motor vehicle at the aforesaid time and place as herein before described;
- h. Failing to maintain said commercial vehicle in a safe condition; and,
- i. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway.

26. As a direct result of the negligent and/or careless conduct of defendant, the plaintiff, suffered various serious and permanent personal injuries, serious impairment of body function and/or permanent serious disfigurement, and/or aggravation of pre-existing conditions, including, but not limited to: multilevel thoracic disc protrusions, multilevel thoracic disc bulging, multilevel lumbar disc protrusions, multilevel lumbar disc bulging, multilevel cervical disc bulging, thoracic sprain and strain, lumbar sprain and strain, cervical sprain and strain, right hand sprain and strain, post traumatic headaches, and other ills and injuries, all to plaintiff's great loss and detriment.

27. As a result of these injuries, all of which are permanent in nature and all of which are to plaintiff's great financial detriment and loss, plaintiff has in the past, is presently, and may in the future suffer great pain, anguish, sickness and agony and will continue to suffer for an indefinite time into the future.

28. As an additional result of the carelessness and/or negligence of defendant, plaintiff has suffered emotional injuries along with the physical injuries suffered.

29. As a further result of the injuries sustained, the plaintiff has, is presently, and may

in the future undergo a great loss of earnings and/or earning capacity, all to plaintiff's further loss and detriment.

30. Furthermore, in addition to all the injuries and losses suffered, the plaintiff has incurred or will incur medical, rehabilitative and other related expenses in an amount equal to and/or in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S. §1701, et. seq., as amended, and/or Worker's Compensation Benefits, pursuant to Act 57, for which plaintiff makes claim for in the present action.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

COUNT IV
David Updegrave v. United States of America
Property Damage

31. Plaintiff incorporates herein the allegations set forth in the aforementioned paragraphs, inclusive, as if set forth here at length.

32. As a result of defendant's negligence and/or carelessness as aforesaid, plaintiff suffered property damage to plaintiff's vehicle and other related damages.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

COUNT V
Jacob Czarnecki v. Catherine Mahon
Personal Injury

33. Plaintiff incorporates herein the allegations set forth in the aforementioned paragraphs, inclusive, as if set forth here at length.

34. The negligence and/or carelessness of defendant consisted of the following:

- a. Operating a commercial motor vehicle in a negligent and/or careless manner without regard for the rights or safety of plaintiff or others;
- b. Failing to have said commercial vehicle under proper and adequate control;
- c. Failing to observe the position of the plaintiff's vehicle and to take such action as was necessary to prevent causing a collision;
- d. Failing to operate a commercial motor vehicle at a speed which would have allowed the defendant to stop within an assured clear distance;
- e. Operating said commercial vehicle at a dangerous and excessive rate of speed under the circumstances;
- f. Being inattentive to defendant's duties as the operator of a commercial motor vehicle;
- g. Disregarding traffic lanes, patterns and other devices;
- h. Failing to keep an adequate distance from other vehicles that were within the vicinity of the commercial vehicle that defendant, through its lessees, agents, servants, workmen, and/or employees, was operating;
- i. Failing to perceive the highly apparent danger to others which the defendant's actions and/or inactions posed;

- j. Failing to give plaintiff meaningful warning signs concerning the impending incident;
- k. Failing to exercise ordinary care to avoid injuring plaintiff;
- l. Failing to be highly vigilant and to maintain sufficient control of said commercial vehicle;
- m. Causing a collision;
- n. Operating a commercial motor vehicle with disregard for the rights, safety and proximity of plaintiff, even though defendant was aware, or should have been aware of plaintiff's presence and the threat of harm posed to plaintiff;
- o. Failing to inspect defendant's commercial vehicle or to maintain said vehicle in a safe and non-defective condition;
- p. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway;
- q. Failing to operate a commercial motor vehicle in compliance with the applicable laws and ordinances of the City of Bernville and County of Berks, and the Statutes of the Commonwealth of Pennsylvania pertaining to the operation and control of commercial motor vehicles;
- r. Operating a commercial motor vehicle and other devices at the same time and in total disregard for the safety of the plaintiff and others in direct violation of the laws of the Commonwealth of Pennsylvania; and,

35. As a direct result of the negligent and/or careless conduct of defendant, the plaintiff, suffered various serious and permanent personal injuries, serious impairment of body

function and/or permanent serious disfigurement and/or aggravation of pre-existing conditions, including, but not limited to: broad based lumbar disc bulging, broad based cervical disc bulging, lumbar sprain and strain, cervical sprain and strain, thoracic sprain and strain, post traumatic headaches, and any other ills and injuries, all to plaintiff's great loss and detriment.

36. As a result of these injuries, all of which are permanent in nature and all of which are to plaintiff's great financial detriment and loss, plaintiff has in the past, is presently and may in the future suffer great pain, anguish, sickness and agony and will continue to suffer for an indefinite time into the future.

37. As an additional result of the carelessness and/or negligence of defendant, plaintiff has suffered emotional injuries, along with the physical injuries suffered.

38. As a further result of the plaintiff's injuries, plaintiff has in the past, is presently and may in the future undergo a great loss of earnings and/or earning capacity, all to plaintiff's further loss and detriment.

39. Furthermore, in addition to all the injuries and losses suffered by the plaintiff, plaintiff has also incurred or will incur medical, rehabilitative and other related expenses in an amount equal to and/or in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa.C.S. §1701, et. seq., as amended, and/or Worker's Compensation Benefits, pursuant to Act 57, for which plaintiff makes a claim for payment in the present action.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

COUNT VI
Jacob Czarnecki v. United States of America
Personal Injury

40. Plaintiff incorporates by reference all the allegations contained in the above paragraphs as if the same were set forth below at length.

41. The negligence and/or carelessness of defendant, acting individually and/or by and through agents, servants, workmen and/or employees, consisted of the following:

- a. Operating a commercial motor vehicle in a negligent and/or careless manner without regard for the rights or safety of plaintiff or others;
- b. Failing to have said commercial vehicle under proper and adequate control;
- c. Failing to observe the position of the plaintiff's vehicle and to take such action as was necessary to prevent causing a collision;
- d. Failing to operate a commercial motor vehicle at a speed which would have allowed the defendant to stop within an assured clear distance;
- e. Operating said commercial vehicle at a dangerous and excessive rate of speed under the circumstances;
- f. Being inattentive to defendant's duties as the operator of a commercial motor vehicle;
- g. Disregarding traffic lanes, patterns and other devices;
- h. Failing to keep an adequate distance from other vehicles that were within the vicinity of the commercial vehicle that defendant, through its lessees, agents, servants, workmen, and/or employees, was operating;
- i. Failing to perceive the highly apparent danger to others which the

- defendant's actions and/or inactions posed;
 - j. Failing to give plaintiff meaningful warning signs concerning the impending incident;
 - k. Failing to exercise ordinary care to avoid injuring plaintiff;
 - l. Failing to be highly vigilant and to maintain sufficient control of said commercial vehicle;
 - m. Causing a collision;
 - n. Operating a commercial motor vehicle with disregard for the rights, safety and proximity of plaintiff, even though defendant was aware, or should have been aware of plaintiff's presence and the threat of harm posed to plaintiff;
 - o. Failing to inspect defendant's commercial vehicle or to maintain said vehicle in a safe and non-defective condition;
 - p. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway;
 - q. Failing to operate a commercial motor vehicle in compliance with the applicable laws and ordinances of the City of Bernville and County of Berks, and the Statutes of the Commonwealth of Pennsylvania pertaining to the operation and control of commercial motor vehicles;
 - r. Operating a commercial motor vehicle and other devices at the same time and in total disregard for the safety of the plaintiff and others in direct violation of the laws of the Commonwealth of Pennsylvania; and,
42. The negligence and/or carelessness of defendant further consisted of the

following:

- a. Permitting an incompetent driver to operate defendant's commercial motor vehicle;
- b. Failing to determine whether defendant, through its lessees, agents, servants, workmen, and/or employees, possessed the necessary skills and/or possessed the necessary mental or physical ability to exercise such driving skills;
- c. Failing to determine whether defendant, through its lessees, agents, servants, workmen, and/or employees, possessed a valid license or other requirements to drive and/or operate a commercial motor vehicle;
- d. Failure to inspect defendant, through its lessees, agents, servants, workmen, and/or employee's prior history of bad driving;
- e. Failing to instruct defendant, through its lessees, agents, servants, workmen, and/or employees, in the proper method of operating a commercial motor vehicle;
- f. Failing to properly instruct the defendant, through its lessees, agents, servants, workmen, and/or employees, on how to properly operate defendant's commercial motor vehicle and its warning apparatus in an emergency situation;
- g. Failing, as defendant, through its lessees, agents, servants, workmen, and/or employees' authority, to control said driver's conduct in regard to the manner in which said defendant was operating the commercial motor vehicle at the aforesaid time and place as herein before described;

- h. Failing to maintain said commercial vehicle in a safe condition; and,
- i. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway.

43. As a direct result of the negligent and/or careless conduct of defendant, the plaintiff, suffered various serious and permanent personal injuries, serious impairment of body function and/or permanent serious disfigurement, and/or aggravation of pre-existing conditions, including, but not limited to: broad based lumbar disc bulging, broad based cervical disc bulging, lumbar sprain and strain, cervical sprain and strain, thoracic sprain and strain, post traumatic headaches, and other ills and injuries, all to plaintiff's great loss and detriment.

44. As a result of these injuries, all of which are permanent in nature and all of which are to plaintiff's great financial detriment and loss, plaintiff has in the past, is presently, and may in the future suffer great pain, anguish, sickness and agony and will continue to suffer for an indefinite time into the future.

45. As an additional result of the carelessness and/or negligence of defendant, plaintiff has suffered emotional injuries along with the physical injuries suffered.

46. As a further result of the injuries sustained, the plaintiff has, is presently, and may in the future undergo a great loss of earnings and/or earning capacity, all to plaintiff's further loss and detriment.

47. Furthermore, in addition to all the injuries and losses suffered, the plaintiff has incurred or will incur medical, rehabilitative and other related expenses in an amount equal to and/or in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S. §1701, et. seq., as amended, and/or Worker's Compensation Benefits, pursuant to Act 57, for which plaintiff makes claim for in the

present action.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

COUNT VII
Christi Czarnecki v. Catherine Mahon
Personal Injury

48. Plaintiff incorporates herein the allegations set forth in the aforementioned paragraphs, inclusive, as if set forth here at length.

49. The negligence and/or carelessness of defendant consisted of the following:

- a. Operating a commercial motor vehicle in a negligent and/or careless manner without regard for the rights or safety of plaintiff or others;
- b. Failing to have said commercial vehicle under proper and adequate control;
- c. Failing to observe the position of the plaintiff's vehicle and to take such action as was necessary to prevent causing a collision;
- d. Failing to operate a commercial motor vehicle at a speed which would have allowed the defendant to stop within an assured clear distance;
- e. Operating said commercial vehicle at a dangerous and excessive rate of speed under the circumstances;
- f. Being inattentive to defendant's duties as the operator of a commercial motor vehicle;
- g. Disregarding traffic lanes, patterns and other devices;

- h. Failing to keep an adequate distance from other vehicles that were within the vicinity of the commercial vehicle that defendant, through its lessees, agents, servants, workmen, and/or employees, was operating;
- i. Failing to perceive the highly apparent danger to others which the defendant's actions and/or inactions posed;
- j. Failing to give plaintiff meaningful warning signs concerning the impending incident;
- k. Failing to exercise ordinary care to avoid injuring plaintiff;
- l. Failing to be highly vigilant and to maintain sufficient control of said commercial vehicle;
- m. Causing a collision;
- n. Operating a commercial motor vehicle with disregard for the rights, safety and proximity of plaintiff, even though defendant was aware, or should have been aware of plaintiff's presence and the threat of harm posed to plaintiff;
- o. Failing to inspect defendant's commercial vehicle or to maintain said vehicle in a safe and non-defective condition;
- p. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway;
- q. Failing to operate a commercial motor vehicle in compliance with the applicable laws and ordinances of the City of Bernville and County of Berks, and the Statutes of the Commonwealth of Pennsylvania pertaining to the operation and control of commercial motor vehicles;

r. Operating a commercial motor vehicle and other devices at the same time and in total disregard for the safety of the plaintiff and others in direct violation of the laws of the Commonwealth of Pennsylvania; and,

50. As a direct result of the negligent and/or careless conduct of defendant, the plaintiff, suffered various serious and permanent personal injuries, serious impairment of body function and/or permanent serious disfigurement and/or aggravation of pre-existing conditions, including, but not limited to: C7-T1 broad based cervical disc protrusion, left paracentral disc protrusion, multilevel cervical disc bulging, L3-4 left posterolateral broad based protrusion, multilevel lumbar disc bulging, cervical sprain and strain, lumbar sprain and strain, post traumatic headaches, and any other ills and injuries, all to plaintiff's great loss and detriment.

51. As a result of these injuries, all of which are permanent in nature and all of which are to plaintiff's great financial detriment and loss, plaintiff has in the past, is presently and may in the future suffer great pain, anguish, sickness and agony and will continue to suffer for an indefinite time into the future.

52. As an additional result of the carelessness and/or negligence of defendant, plaintiff has suffered emotional injuries, along with the physical injuries suffered.

53. As a further result of the plaintiff's injuries, plaintiff has in the past, is presently and may in the future undergo a great loss of earnings and/or earning capacity, all to plaintiff's further loss and detriment.

54. Furthermore, in addition to all the injuries and losses suffered by the plaintiff, plaintiff has also incurred or will incur medical, rehabilitative and other related expenses in an amount equal to and/or in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa.C.S. §1701, et. seq., as

amended, and/or Worker's Compensation Benefits, pursuant to Act 57, for which plaintiff makes a claim for payment in the present action.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

COUNT VIII
Christi Czarnecki v. United States of America
Personal Injury

55. Plaintiff incorporates by reference all the allegations contained in the above paragraphs as if the same were set forth below at length.

56. The negligence and/or carelessness of defendant, acting individually and/or by and through agents, servants, workmen and/or employees, consisted of the following:

- a. Operating a commercial motor vehicle in a negligent and/or careless manner without regard for the rights or safety of plaintiff or others;
- b. Failing to have said commercial vehicle under proper and adequate control;
- c. Failing to observe the position of the plaintiff's vehicle and to take such action as was necessary to prevent causing a collision;
- d. Failing to operate a commercial motor vehicle at a speed which would have allowed the defendant to stop within an assured clear distance;
- e. Operating said commercial vehicle at a dangerous and excessive rate of speed under the circumstances;
- f. Being inattentive to defendant's duties as the operator of a commercial

motor vehicle;

- g. Disregarding traffic lanes, patterns and other devices;
- h. Failing to keep an adequate distance from other vehicles that were within the vicinity of the commercial vehicle that defendant, through its lessees, agents, servants, workmen, and/or employees, was operating;
- i. Failing to perceive the highly apparent danger to others which the defendant's actions and/or inactions posed;
- j. Failing to give plaintiff meaningful warning signs concerning the impending incident;
- k. Failing to exercise ordinary care to avoid injuring plaintiff;
- l. Failing to be highly vigilant and to maintain sufficient control of said commercial vehicle;
- m. Causing a collision;
- n. Operating a commercial motor vehicle with disregard for the rights, safety and proximity of plaintiff, even though defendant was aware, or should have been aware of plaintiff's presence and the threat of harm posed to plaintiff;
- o. Failing to inspect defendant's commercial vehicle or to maintain said vehicle in a safe and non-defective condition;
- p. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway;
- q. Failing to operate a commercial motor vehicle in compliance with the applicable laws and ordinances of the City of Bernville and County of

Berks, and the Statutes of the Commonwealth of Pennsylvania pertaining to the operation and control of commercial motor vehicles;

- r. Operating a commercial motor vehicle and other devices at the same time and in total disregard for the safety of the plaintiff and others in direct violation of the laws of the Commonwealth of Pennsylvania; and,

57. The negligence and/or carelessness of defendant further consisted of the following:

- a. Permitting an incompetent driver to operate defendant's commercial motor vehicle;
- b. Failing to determine whether defendant, through its lessees, agents, servants, workmen, and/or employees, possessed the necessary skills and/or possessed the necessary mental or physical ability to exercise such driving skills;
- c. Failing to determine whether defendant, through its lessees, agents, servants, workmen, and/or employees, possessed a valid license or other requirements to drive and/or operate a commercial motor vehicle;
- d. Failure to inspect defendant, through its lessees, agents, servants, workmen, and/or employee's prior history of bad driving;
- e. Failing to instruct defendant, through its lessees, agents, servants, workmen, and/or employees, in the proper method of operating a commercial motor vehicle;
- f. Failing to properly instruct the defendant, through its lessees, agents, servants, workmen, and/or employees, on how to properly operate

defendant's commercial motor vehicle and its warning apparatus in an emergency situation;

- g. Failing, as defendant, through its lessees, agents, servants, workmen, and/or employees' authority, to control said driver's conduct in regard to the manner in which said defendant was operating the commercial motor vehicle at the aforesaid time and place as herein before described;
- h. Failing to maintain said commercial vehicle in a safe condition; and,
- i. Allowing a dangerous, unsafe and defective commercial motor vehicle to be operated on a public highway.

58. As a direct result of the negligent and/or careless conduct of defendant, the plaintiff, suffered various serious and permanent personal injuries, serious impairment of body function and/or permanent serious disfigurement, and/or aggravation of pre-existing conditions, including, but not limited to: C7-T1 broad based cervical disc protrusion, left paracentral disc protrusion, multilevel cervical disc bulging, L3-4 left posterolateral broad based protrusion, multilevel lumbar disc bulging, cervical sprain and strain, lumbar sprain and strain, post traumatic headaches, and other ills and injuries, all to plaintiff's great loss and detriment.

59. As a result of these injuries, all of which are permanent in nature and all of which are to plaintiff's great financial detriment and loss, plaintiff has in the past, is presently, and may in the future suffer great pain, anguish, sickness and agony and will continue to suffer for an indefinite time into the future.

60. As an additional result of the carelessness and/or negligence of defendant, plaintiff has suffered emotional injuries along with the physical injuries suffered.

61. As a further result of the injuries sustained, the plaintiff has, is presently, and may

in the future undergo a great loss of earnings and/or earning capacity, all to plaintiff's further loss and detriment.

62. Furthermore, in addition to all the injuries and losses suffered, the plaintiff has incurred or will incur medical, rehabilitative and other related expenses in an amount equal to and/or in excess of the basic personal injury protection benefits required by the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C.S. §1701, et. seq., as amended, and/or Worker's Compensation Benefits, pursuant to Act 57, for which plaintiff makes claim for in the present action.

WHEREFORE, plaintiff demands judgment in plaintiff's favor and against defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus all reasonable costs and any other relief the court deems necessary.

**SPEAR, GREENFIELD,
RICHMAN, WEITZ & TAGGART, P.C.**



BY: MARC F. GREENFIELD, ESQUIRE

Two Penn Center, Suite 200
1500 J.F.K. Boulevard
Philadelphia, PA 19102
(215) 985-2424
Attorney for Plaintiff
I.D. NO.: 6281

INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS, SUPPLEMENTAL REQUESTS AND REQUEST FOR ADMISSIONS ARE SERVED ATTACHED TO PLAINTIFF'S COMPLAINT AT THE TIME SERVICE OF ORIGINAL PROCESS IS AND/OR WAS EFFECTUATED.

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